

1900-035 Chancery Causes: Henry Nicoll vs. W.F. Hobbs &
Lee Co

Russell, Jesse, Witt, Sprinkel

1 Plot

2A-Contract Dispute
T-Property

To the Hon. ^{H.A.} Skeen, Judge of the Circuit Court for Lee
County,

Your Orator, Henry Nicoll, humbly complaining sheweth unto the court:

That on the 16th day of December 1894. he purchased from
M.C. Parsons, all of a certain large tract of land supposed to contain
about 1165 acres, situate in the said county of Lee, on what is known
as the Elk Knob, and known as the Elk Knob Farm:

The same being described, not by metes and bounds, but as being all the
land on and adjoining said Elk Knob and in the possession at that time
of the said M.C. Parsons, that could be included in one boundary; and to
your Orator the said M.C. Parsons executed a title bond or contract,
which bond or contract was duly recorded in the Clerks Office of ~~the~~
County Court of said County in deed book No, 31. P. 177.

At the time of the purchase of said land by your Orator, the legal
title therof was in the heirs of one M.D. Richmond, (then deceased) and
before the same could be extracted from said heirs the said ~~heirs~~
~~the said M.C. Parsons died.~~ So the administrators of the
estate of M.C. Parsons, to-wit J.C. Jessee and H.J. Russell, brought suit
on the Chancery side of the Circuit Court for said County against the
heirs of M.D. Richmond, under the style of J.C. Jessee and H.J. Russell
Adms et al, VS. Henry Nicoll et-al, for the purpose of extracting the said
title from the heirs of the said M.D. Richmond; and by decree of said
Court entered in said cause on the 15th day of June 1898. C.T. Duncan,
was appointed a special commissioner of said ^{Court} to make a deed for said
land, transferring the title thereto from the said Richmond heirs to
your Orator. And pursuant to the terms of said decree, the said C.T.
Duncan, on the 15th day of June 1898, executed to your Orator a deed for
said lands, a copy of which deed is herewith filed, Marked "A" and prayed
to be read as part of this bill:

But in the life time of the said M.C. Parsons, he the said Parsons had
sold to one W.F. Hobbs a small parcel of said tract of land, so your
Orator has been informed, supposed to contain 21 or 22 acres. Which said

sale was evidenced by a tittle bond, and the bounds of said parcel of land so sold the said W.F.Hobbs, was not then surveyed, but indicated by stakes and blases made ⁱⁿ the timber, which said parcel of land the said W.F.Hobbs, afterwards, to-wit on the _____ day of _____ 18 , sold and conveyed , so your Orator is informed to H.J.Russell, and J.C. Jessee, who in turn conveyed the same to one J.F.Witt, or Ira G.Sprink~~le~~, or both of them jointly, so your Orator is informed.

About the time however that the said conveyance was made to the said Witt and Sprink~~le~~, the said J.C.Jessee, H.J.Russell, J.F.Witt, and Ira G.Sprinkel, and your Orator met to gather on or near said parcel of land to locate and fix the bounds thereof, at which meeting your Orator was shown cert^ain blased or marked timber which was represented to him to be the bounds of said land sold to the said W~~F~~.Hobbs, by the said Parsons, and your Orator not knowing then that the said marked timber so shown him was not the bounds established by said Parsons with the said Hobbs, your Orator agreed verbally that the same should constitute the true bound~~ary~~ line. But since then your Orator has investigated the matter th~~oroughly~~ and he has discovered that the boundaries shown your Orator by the said Jessee, Russalll, Witt, and Sprink~~le~~--had been made by them, and not by the said M.C.Parsons, and that the boundary of land included in the bounds so shown your Orator contained more than double the amount of land actually sold by the said Parsons to the aid W.F. Hobbs,

So your Orator having discovered or ascertained the bounds actually ~~##~~ established by the said M.C.Parsons, and W.F.Hobbs, he had the same together with the boundary claimed by the said Jessee, Russell, Witt, and Sprink~~le~~, surveyed and plotted by L.M.Carmich~~el~~, the County Surveyor of said County of Lee, a copy of which plot and survey with the metes and bounds of both ~~the~~ ^{tracts} tract actually sold to the said Hobbs, and the one claimed to have been sold him, is herewith filed marked Exhibit "B", ---- and prayed to be read as a part of this bill.

NO.3.

The part of said land represented by the colored part of said plot containing $25\frac{3}{4}$ -acres is the land actually sold to said Hobbs, and to which the said Jessee, Russell, Witt, Sprinkel and Hobbs have a right, the land represented by the uncolored portion of said plot, Beginning at (C¹) a stake and cedar, thence S 67 E 12 $\frac{3}{4}$ poles, N 81 E 21 poles
S 69 E 20 poles

poles to (C) a spotted ~~oak~~ ^{oak} ~~thence ~~8 1/4 E 64 poles~~~~ thence S 14 E 64 poles to (D) double oak marked with knife ^{as} a corner tree, and on top of a ~~stake~~ spur, thence S 60 W 90

Poles to (A) a double chinquapin ~~mark~~ ^{mark} ~~the~~ beginning of tract actually sold said Hobbs, thence N 55 E 60 poles to (D²) a double pin oak stump, tree cut down, thence N 35 W 86 poles to (C²) the beginning, is the land unjustly claimed by the said Jessee, Russell, Witt, and Sprinkel from your Crator, ~~as~~ a part of the land sold by M.C. Parsons to the said W.F. Hobbs, But your Crator avers and charges that ^{the} tract of parcel of land last aforesaid lies with ^{it}, and is a part of the boundary of the land which he purchased from M.C. Parsons, aforesaid, and is justly entitled to the quiet and peaceable possession of the ~~same~~ same.

Now your Crator further avers that sometime after the said Russell and Jessee purchased the said W.F. Hobbs, land, the said H.J. Russell, died Intestate, leaving a widow ~~Eva~~ ^{Eva} Russell, and four children, Benice Russell, Catherine Russell, Bernard Russell
and Pearl D. Russell Russell, his only heirs.

Your Crator avers that he is as yet in the possession of the said disputed tract of land, but he understands that the said J.F. Witt, Ira G. Sprinkel, J.C. Jessee, and the said heirs, are all claiming to have tittle to said ~~disputed~~ ^{disputed} lands.

Your Crator states and charges that they, the said Jessee, Witt, Sprinkel ^{said} Hobbs, and Russell ~~said~~ heirs have no actual possession of said disputed lands, but that they have cut timber thereon, and other trespasses committed thereon, nor have they exercised any of the other acts of ownership ~~ship~~.

and possession. Your Orator is now and has been in continuous possession of said disputed lands for a number of years.

Your ^{Orator} cannot bring an action of ejectment against the said parties to settle his claim at law, but his only remedy is in a Court of Equity to have their said illegal claim to said disputed strip cancelled and declared null and void. The same is a cloud upon your Orators title ~~to~~ ^{##} to said land, which is the object of this bill to remove.

Wherefore being without remedy save in a Court of Equity the prayer of your Orator is that the said J.C. Jessee W.F. Hobbs, J.F. Witt, Ira G.

Sprinkel, Eva Russell, Bernice Russell, Catherine Russell

Bernard Russell, Pearl D. Russell

be made parties defendant to this ~~bill~~ bill, and be required to answer

the same, but not upon oath, the oath being hereby waived, that a guardian

ad-litem be appointed to defend the interest of the said Bernice, _____

Catherine, Bernard and Pearl D. Russell, who are inf-

ants under the age of twenty one years, that proper process issue, and

all proper orders be made, that upon hearing hereof, your honor will

decree that the claims of the said defendants or either of them to the

said disputed parcel of land, be declared null and void; that the same be

reassessed cancelled and set aside and your Orator be made stable in

his title thereto and quieted in the possession thereof, and that all

such other further and general relief be granted and given your Orator

as in the premises is just and right and your Orator will ever pray,

etc.

J.C. Noel p.g.

Plf's Costs
Clerk 5.54
Tax 1.50
Shff 4.50
atty 15.00
L A L 5.00
Co clk 25
\$31.79

Henry Nicoll
W. S. Bill in Cha.
W. P. Hobbs et al

1900 2nd May Rules Bill
filed Spa Executed & D. N.
" 1st June Rules taken the
last Monday in May
D. N. confirmed & cause
set for hearing
June Term 1900 Decree final
See Chas O.B. No 6 Page 396

Henry Nicoll,
VS.) In Chancery.
W.F.Hobbs, et-al)

The joint and separate answer of Bernice, Gathurins.
Bernard, Pearl D. Russell.

infants under the age of twenty one years by H.O.Ballou, their
guardian ad-litem, assigned to defend them in this suit, to a
bill of complaint exhibited against them and others, in the ##
Circuit Court for the County of Lee by Henry Nicoll.

The respondents reserving to themselves the benefit of all
just exceptions to said bill, for answer thereto, or to so ##
much thereof as they are advised that is material they
should answer, by their said guardian ad-litem answer and say
That they are infants of tender years, and by reason of their
infancy, are ~~incapable~~ of understanding, or of taking care of #
their rights and interests.

They therefore, by their said guardian commend themselves and
their rights and interests to the protection of the Court,
and pray that no decree may be pronounced which will tend to
their prejudice.

And having fully answered, the said respondents pray to be
hence dismissed with their reasonable costs in this behalf
expended, and they will ever pray, etc.

H.O. Ballou

Guardian ad-litem for

Bernice, Gathurins Bernard, Pearl D.
Russell,

Henry Nicoll,
VS. { Murder of infant
defence by
Guardian ad-litem
W. F. Hobbs, et al.

Henry Mcoll Plff

vs

W. H. Hobbs et al Defs

} In Chancery.

Upon motion H. O. Ballou is appointed guardian ad litem for Bernice Russell Catherine Russell Bernard Russell and Pearl D. Russell, the infant-defendants in this cause, and upon like motion leave is granted to the said H. O. Ballou to file the answer of the said infants by their said guardian ad litem, which is accordingly done, and this cause coming on this the 8 day of June 1900, to be heard upon the plaintiffs bill of complaint and exhibits filed therewith, the answer of the said infants by their said guardian ad litem, ^{and was argued by counsel} and ~~it appearing~~ to the court that all the defendants ~~had~~ to have been duly summoned, by personal service of process, and all except said infants by their said guardian ad litem, having failed to appear, to plead, answer or demur, the bill is taken as confessed as to them, and it is adjudged, ordered, and decreed that the plaintiff be quieted in the title and possession of the

land in dispute as described in the bill and proceedings, ~~and~~ but more particularly described in plaintiff's exhibit "B" filed with his bill of Complaint: Beginning at (C¹) a stake and cedar, thence S 67 E 12 $\frac{3}{4}$ poles, N 81 E 21 poles, S 69 E 20 poles, ^{S 79 E 8 poles} to (C) a spotted oak, thence S 14 E 64 poles to (D) a double oak marked with a knife as a corner tree and on top of a spur, thence S 60 W 90 poles to (A) a double chengwapi oak, the beginning of the tract actually sold said Hobbs, thence N 55 E 60 poles to (D²) a double pin oak stump, (tree cut-down), thence N 35 W 86 poles to (C²) the Beginning, containing 2 $\frac{1}{4}$ acres more or less, and that he hold said land by the title firm and stable, and free from any claim, demand or interference of the defendants in this cause, or any of them, and all conveyances of said land, made by the defendants herein and in the bill and proceedings mentioned adverse to the title of the plaintiff, be and the same are hereby declared to be null and of no effect, and are to be cancelled and rescinded, so far as they effect the said land in dispute, and that the said plaintiff recover his costs in

this cause expended, from the defendants,
And a copy of this decree shall be
delivered to the clerk of the Lee County
Court - to be recorded in the book in
which deeds are recorded, and to be
indexed as though it - was a deed from
the defendants herein, to the plaintiff.
And it is ordered that - this cause
be stricken from the docket:

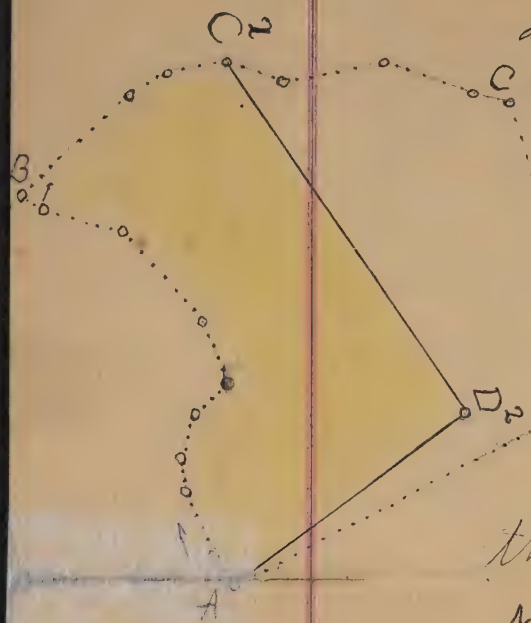
Henry Nicoll
vs { Decree

W. H. Habbstad

Entered on O. C. B. No. 6
for 396.

Entered
for a woman

6/8/1900



(1)

Meters & bounds of the lands claimed by E. Spink as the lands agreed upon by parties interested as the France Hobbs tract sold by Cecil Parson. indicated by black dotted line of plat and lettered A B C D

Beginning at (A) a double chinquapin-oak thence with a fence N 32 W 7 poles N 23 W 14 poles

N 5 W 6 po. N 18 1/2 E 10 po N 5 1/2 E 9 1/2 po N 21 W 14 po

N 35 1/4 W 26 po to two white oaks N 17 W 16 po N 5 7

W 6 poles to (B) a stake, Cedar & two post oaks

thence with another fence N 54 E 30 po N 64 1/2 E 10 po

N 83 E 12 po S 67 E 12 3/4 po N 81 E 21 po S 69 E 20 po S 79 E 8

poles to (C) a spotted oak thence S 14 E 64 poles to (D) a double oak marked with knife as a corner tree and on top of a spur thence S 60 W 90 poles to the beginning Containing 47 acres

(2)

Meters & bounds of the land claimed by H. McCall as said France Hobbs tract. indicated by the Colored spot within the foregoing named plat and lettered A B C² D². Beginning at (A) a double chinquapin oak thence with a fence N 32 W 7 poles N 23 W 14 po. N 5 W 6 po

N 18 1/2 E 10 po N 5 1/2 E 9 1/2 po N 21 W 14 po N 35 1/4 W 26 po to two white

oaks N 17 W 16 po N 5 7 W 6 po to (B) a stake, Cedar & two post

oaks thence with another fence N 54 E 30 po N 64 1/2 E 10 po

N 83 E 12 po to (C²) a stake & Cedar thence leaving said

fence S 35 E 86 poles to (D²) a double pin-oak stump

(tree cut down) and on top of a spur (This line

passes over a sugar tree stump at (X) - 52 poles from

(C²). said stump stands about 2 poles south of a spring.

Thence from said double pin-oak S 55 W 60 po

to the beginning Containing 2 5/4 Acres

Surveyed Feb. 1900 L. M. Carmichael

Miles & bound
Frances Hollis
From

Cecil Parson
s. Clamuel,

Exhibit "B"

1- Title bond W. F. Hobbs to W. F. Hobbs - date - Bond lost for 21 or 22 years (2) They were out the corner lines - Jas & Ross Bush to can show the corner Hobbs is now known in the country showed Viscoe the values as claimed by Viscoe -

2- Title Bond from W. F. Hobbs to Ransom & Jesse - They perhaps have this (See) date - about 1850 - all pt for same land -

3- Title Bond - Sept - 1895 R. & J. to J. G. Sprinkle - (we have copy)

4- Title Bond - Sept of a bond was made by R. & J. to J. G. Witt & assigned to J. G. Sprinkle by Witt -

5- Title Bond - Sept 1896 - J. G. Sprinkle to John Collins for same land reserved life possession to J. G. Sprinkle (we have original - (Collins not a party to) Sprinkle has the actual ^{equity interest} possession of the land is plowing it this season (1901) one-half of it is cleared

In the Viscoe suit - all parties were served & J. Sprinkle & Jesse came to Jonesville & found the deed not filed in Rule day & Sprinkle asked Jesse if he (J.) should

Amie Gasic + J. Dair no that he
 (J.) wanted employ cause
 + defend the suit - + 5 paid
 no more attention to it -

Will says R. + J. undertake to defend
 it the suit on R. + J.

Jesse says that Sprinkle was to
 attend it the suit on S. to 1000

With John & Niece

What does Jesse say.

2nd May Rules 1900.

22 G. 769. Bill Review always to final decree.

25 G. 411. Petition Decree, interlocutory

See 3435. Code, Bill of Review only filed
to final decree & in one year.
See cases cited here.

93 Va 698. Rehearing, on account of
Surprise & agreement &c.

83 V. 141. Petition when B. Review when.
Part Chy Pr. page 339. Case in point not
reported.

On the Rule day, Sprinkle & Jesse came
to town & clerk informed them bill not
filed & Sprinkle asked Jesse if he must come
back & Jesse said no, he would defend &c.
Jesse went to Remmon & did not defend &
decree went by default.
May 30th 1901.

Ira & Sprinkle

Memo of
Authorities.

88-11-
66 11-
8-23

17618-
14008-
3618-
2176-
36118-
3831

Know all Men by these presents that
we J. C. Jesse and Harry J. Russell are
bound unto Ira G. Sprinkle, in the just
and full sum of Three hundred dollars
to which payment we bind ourselves
jointly and severally firmly by these pres-
ents

The Conditions of the above
obligation are such that whereas the said
J. C. Jesse & Harry J. Russell have this day
sold unto the said Ira G. Sprinkle a certain
tract or parcel of land lying and being
in the County of Lee and State of Va. and
bounded as follows To wit Beginning at
a double Spotted Oak and double Chingwapi
oak on the line between Ira G. Sprinkle and
M. C. Parsons (decd) Thence in a North East-
ward Course (being a straight line) to a double
chingwapi oak and Small Hornbeam in a
flat near the top of ridge, Thence in a Northwest
Course across a hollow passing the falling
rock to a cedar and leaning chingwapi oak
near a fence and with said fence, and
with said fence Northwestwardly to the line
between Ira G. Sprinkle and M. C. Parsons
near a chingwapi oak and Small Cedar, and
with said line Southeastwardly to the beginning.

Now if the said J. C. Jesse and Harry J.
Russell shall make or cause to be made
a good and sufficient deed to said land
with General Warranty then this obligation
to be null and void otherwise to remain in full
force and Virtue.

Witness our signatures and seals
Sept. 1895

Seal

Seal

Jessie + Russell
To 3 Fille Bond
3
Ira G. Sprinkle

Know all men by these presents that I
John Collier of the County^{of} Lee and State of
Virginia am bound unto Ira G. Sprinkle
in the sum of four hundred dollars
lawfully money of the United States to
which payment I bind myself his
executors and administrators firmly by
by these presents,

The Conditions of the above obligation is
such that whereas the said Ira G. Sprinkle
has this day sold to the said Collier a Certain
Tract or parcel of Land lying in the County
of Lee and State of Virginia and situate
near the Elk Knob and bounded as follows
to wit, Beginning at a double spotted oak
and double pin oak on the line between
Ira G. Sprinkle and M. C. Parson deed, thence
in a north-eastward Course a straight line
to a pin oak and small hornbeam in
a flat near the top of a ridge, thence in
a northwardly Course crossing a hollow
and passing the falling rock to a pin oak
near a fence, and with said fence
northwestwardly to the line between Ira
G. Sprinkle and M. C. Parsons near a pin oak
and small cedar and with said line
southwardly to the beginning. Now if

the said Ira Sprinkle shall make or cause
to be made a good and sufficient title
to said land then this obligation to be
null and void otherwise to remain in
full force and virtue

Witness the following signatures and seals
this 9th 1896

It is understood and agreed that the said
Ira G. Sprinkle is to retain possession and
have the use of said lands during Natural
life and is to ^{use} such care of the lands
as not to injure the same by too frequent
cultivation in corn

Ira G. ^{his} Sprinkle (Seal)
Mark

Witness,

W. B. Herbst

Ira. G. Sprinkle

To

}
}

Little Bond

John Collier.
